

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Adak Eagle Enterprises, LLC and	)	
Windy City Cellular, LLC	)	WC Docket No. 10-90
	)	
Petitions for Waiver of Certain High-Cost	)	WT Docket No. 10-208
Universal Service Rules	)	

To: The Commission

**REPLY TO OPPOSITION TO APPLICATION FOR REVIEW**

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September 9, 2013

## REPLY TO OPPOSITION TO APPLICATION FOR REVIEW

There is no legitimate basis for the Commission to deny the Application for Review filed by Adak Eagle Enterprises, LLC (“AEE”) and Windy City Cellular, LLC (“WCC”).<sup>1</sup> The Opposition filed by General Communication, Inc. (“GCI”) ignores the major points raised by AEE and WCC.<sup>2</sup> The Commission should reverse the denial *Order* and grant AEE’s and WCC’s waiver requests.<sup>3</sup>

**The Bureaus Failed to Observe the Proper Waiver Standard:** The Commission must not allow the Bureaus to gamble the fate of Adak Island consumers based on the unsubstantiated and unenforceable “pinky promise” of GCI to hypothetically provide future service. The Commission’s waiver standard calls for relief when consumers are at risk of losing voice services “with no alternative terrestrial providers available.”<sup>4</sup> That the Bureaus would define “available” as an unenforceable commitment to maybe provide future service is stunning. GCI does not dispute the lack of any enforceable commitment. Nor does GCI dispute the lack of any specific plan to build infrastructure to provide service before the island goes dark. Moreover, GCI specifically rejects any commitment to build out a wireline service.<sup>5</sup> Of course, GCI does kindly offer to somehow “take over” the taxpayer funded assets deployed through the hard work over the course of several years by AEE and WCC. It is equally stunning that the Bureaus inexplicably seem to endorse such an

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<sup>1</sup> See Application for Review, AEE and WCC, WC Docket No. 10-90, *et al.* (filed Aug. 14, 2013) (“App. for Review”).

<sup>2</sup> GCI filed one Opposition in response to both the Application for Review and Petition for Reconsideration filed by AEE and WCC. See Opposition of General Communication, Inc. to AEE’s and WCC’s Application for Review and Petition for Reconsideration, WC Docket No. 10-90, *et al.* (filed Aug. 30, 2013) (“GCI Opposition”); see also Reply to Opposition to Petition for Reconsideration, AEE and WCC, WC Docket No. 10-90, *et al.* (filed Sept. 9, 2013).

<sup>3</sup> See *Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, Petitions for Waiver of Certain High-Cost Universal Service Rules*, Order, 28 FCC Rcd 10194 (2013) (“Order”).

<sup>4</sup> See *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17633, ¶ 540 (2011) (“USF/ICC Transformation Order”).

<sup>5</sup> See GCI Opposition at n. 8 (“... although GCI committed to continuing to provide voice service, it did not commit to providing ‘wireline’ service.”).

unlawful grab.<sup>6</sup> The fact remains: GCI currently does not serve significant portions of the study area beyond the downtown Adak area, does not currently have the infrastructure, facilities, or equipment on the island to do so, and certainly cannot guarantee build-out quickly enough such that no customers would lose service.<sup>7</sup>

GCI offers that pursuant to Section 214(e)(3), “[i]n the worst case scenario, in which AEE and Windy City cease operations entirely, the Commission and the Regulatory Commission of Alaska [“RCA”] have the statutory authority to compel GCI to expand its coverage.”<sup>8</sup> A possible FCC or RCA order that could potentially be issued sometime in the future to compel GCI to expand its service on Adak Island is not a “terrestrial alternative” that is “available.”

While GCI trivializes the consumers who would lose service as a “few households” that “hardly justif[y]” granting AEE’s and WCC’s waiver petitions,<sup>9</sup> GCI ignores that AEE and WCC also provide essential service into otherwise unserved remote areas and into the sea, where residents, government researchers, public safety personnel, fishermen and other workers regularly require service, particularly in times of emergency. Multiple governmental agencies and departments – including the U.S. Department of Interior Fish and Wildlife Service, the City of Adak, the Adak Police Department, and the U.S. Geological Survey – have sent letters to the Commission explaining how they depend on the critical services provided by AEE and WCC beyond downtown Adak, and how they would be harmed by the unavoidable disruption to these essential services if AEE and WCC were to cease operating.<sup>10</sup> For example, WCC’s White Alice site was instrumental in the emergency rescue of an individual who had become lost in blizzard conditions on Adak Island.<sup>11</sup>

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<sup>6</sup> See Order, ¶ 42.

<sup>7</sup> See App. for Review at 7.

<sup>8</sup> See GCI Opposition at 3 (*citing* 47 U.S.C. § 214(e)(3)).

<sup>9</sup> See GCI Opposition at 4.

<sup>10</sup> See App. for Review at 5, n. 8.

<sup>11</sup> See Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, WC Docket No. 10-90, *et al.*, at 10, Attachment 4 (dated Feb. 28, 2013).

Absent WCC's service, the individual would not have had wireless service and would not have been able to call 911 to alert the search and rescue party of his location. These services are particularly critical given that Adak Island is located in the vicinity of an active volcano and is in both an earthquake and tsunami zone. Indeed, within just the past 10 days, the Aleutian Island region, including Adak, was struck by a 7.0-magnitude earthquake, followed by numerous aftershocks.<sup>12</sup>

**AEE's RUS Loan Must be Given Due Consideration:** The Bureaus did not properly consider the potential for a default on AEE's Rural Utilities Service ("RUS") loan, virtually ignoring the Commission's direction to the Bureaus to "consider whether the specific reforms would cause a provider to default on existing loans and/or become insolvent."<sup>13</sup> The Bureaus make a passing reference to this requirement in a single footnote, inexplicably concluding that "even in the event that AEE were to default on its RUS loan, this cost would be far more than offset by savings to the [Universal Service Fund]."<sup>14</sup> As the companies explained in detail, this strange conclusion is not only unsupported by any cost analysis, but it appears to be wrong.<sup>15</sup> Given GCI's documented practice of selling multiple lines to individual customers in remote Adak, GCI may well continue to receive overall levels of USF support in Adak comparable to the amounts received by AEE and WCC – or even more support – depending on how many lines per customer GCI chooses to collect.

Moreover, the Bureaus set a harmful precedent and exceeded their authority by determining that it is acceptable for a company to default on loans from a separate federal agency. RUS, not the Commission, reviewed and approved AEE's loan and subsequent expenditures. RUS and American taxpayers, not the Commission, will be deprived of the value of the outstanding loan if AEE is forced to default. As RUS explained in its letter to Acting Chairwoman Clyburn, the denial of AEE's

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<sup>12</sup> See, e.g., Rachel D'Oro, *7.0 Quake Rocks Alaska's Aleutian Islands*, Associated Press (Aug. 30, 2013), available at <http://abcnews.go.com/US/wireStory/70-quake-recorded-alaskas-aleutian-islands-20119910>; see also copies of press coverage attached at Exhibit 1.

<sup>13</sup> See *USF/ICC Transformation Order*, ¶ 540.

<sup>14</sup> *Order* at n. 72.

<sup>15</sup> See App. for Review at 8-10.

waiver petition “puts this RUS loan at risk for potential default. [The Commission’s] reasoning, in part, sets bad precedence that all other outstanding RUS loans to rural providers may be treated in the same manner. We believe that in instances where Federal debt is at risk due to a denied waiver, RUS should be given deference during that decision-making process.”<sup>16</sup> The *Order* already is having a chilling impact on infrastructure build-out and discouraging telecommunications companies from taking investment risks.<sup>17</sup>

**GCI’s Assertion that it is a “More Efficient Competitor” is Contradicted by Basic Math and Common Sense:** GCI fails to address its practice of collecting taxpayer money for multiple lines sold to individual Adak customers, or answer why its customers on remote Adak even need multiple phones that only cover a limited portion of the downtown area.<sup>18</sup> Nor does GCI explain how many individual customers it actually has on Adak. Or why it has never bothered to invest in the plant, equipment, infrastructure, or personnel necessary to provide service beyond a small portion of downtown Adak. GCI simply states that it does not include in its high-cost line counts any lines that have no “usage” within the subject quarter. But GCI fails to explain how it defines “use.”<sup>19</sup> Does the Commission believe it is more “efficient” for taxpayers to support a company that serves fewer customers and a significantly smaller coverage area – and takes more taxpayer dollars?<sup>20</sup> Does the Commission believe it is more “efficient” to bankrupt the “small, subscale” WCC (as GCI characterizes the company) that somehow, despite its size and scale, is able

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<sup>16</sup> See Exhibit 2, Letter from John Charles Padalino, Administrator, RUS, to the Honorable Mignon Clyburn, Acting Chairwoman, FCC, WT Docket No. 10-208, *et al.* (dated Aug. 14, 2013).

<sup>17</sup> See Exhibit 3, Letter from James Rowe, Executive Director, Alaska Telephone Association, to the Honorable Lisa Murkowski, *et al.* (dated Sept. 3, 2013), *attaching* Letter from Doug Neal, Chief Executive Officer, OTZ Telephone Cooperative, Inc. and OTZ Telecommunications, LLC, to Peter Aimable, Director, Northern Division, Telecommunications Program, RUS (dated Aug. 21, 2013).

<sup>18</sup> See App. for Review, Exhibit 2 (Declaration of Layton J. Lockett, dated Sept. 4, 2012) and Exhibit 3 (Letter from Clesson Zaima, dated April 12, 2013).

<sup>19</sup> See App. for Review at 13 (“[I]f just one phone call over an entire three-month period is made on each of the five phones belonging to a single customer, has GCI claimed support for those lines?”).

<sup>20</sup> See App. for Review at 12-13.

to serve more customers and a greater area while taking less taxpayer support?

**The Commission Must Examine GCI's Claims of Providing 911 Service:** Just as the Commission must ask GCI what it means by lines that are “used,” the Commission also has the responsibility to ask what GCI means when it says it “provides 911 service.”<sup>21</sup> GCI's 911 service is inadequate and unreliable.<sup>22</sup> Unlike AEE, GCI does not provide the City of Adak with regular customer information reports to proactively help emergency responders identify and find 911 callers.<sup>23</sup> Moreover, whereas AEE and WCC work closely with the City of Adak to provide prompt, reliable 911 assistance whenever requested – and have technicians on Adak Island to support its 911 service – GCI has a history of being unresponsive when asked by the City for assistance with its service and has no technicians on the Island to respond to service outages.<sup>24</sup> Also, unlike AEE and WCC, GCI does not pay any 911 fees to support Adak's basic 911 system.<sup>25</sup> This Commission in particular should find the poor quality of GCI's 911 service troubling, given its focus on ensuring the reliability of 911 service.<sup>26</sup> Further, as GCI admits, its 911 service is provided over AEE lines. What happens to GCI's service when AEE goes dark? This question is particularly important given that GCI explicitly rejects any commitment with respect to the service provided by AEE.<sup>27</sup>

For these reasons, GCI's Opposition fails to provide any legitimate basis for the Commission to deny the Application for Review. The Commission should overturn the Bureaus' erroneous denial *Order* and grant AEE's and WCC's waiver requests so that the companies can continue to provide essential services to consumers on Adak Island in accordance with the fundamental objectives of universal service.

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<sup>21</sup> See GCI Opposition at 5.

<sup>22</sup> See Exhibit 4, Second Declaration of Layton J. Lockett, ¶ 2 (dated September 9, 2013); see also App. for Review, Exhibit 2 (Declaration of Layton J. Lockett, ¶¶ 4-5).

<sup>23</sup> See Second Declaration of Layton J. Lockett, ¶ 3.

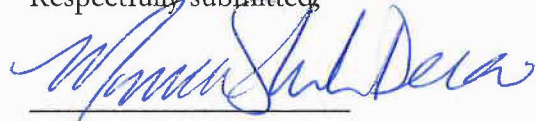
<sup>24</sup> See *id.*, ¶¶ 4-5.

<sup>25</sup> See *id.*, ¶ 6.

<sup>26</sup> See, e.g., *Improving 9-1-1 Reliability, et al.*, Notice of Proposed Rulemaking, 28 FCC Rcd 3414 (2013).

<sup>27</sup> See GCI Opposition at n. 8.

Respectfully submitted,



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*Counsel to Adak Eagle Enterprises, LLC  
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September 9, 2013

## **EXHIBIT 1**

Press Coverage of Recent Earthquake  
Hitting Adak Island



## 7.0 Quake Rocks Alaska's Aleutian Islands

ANCHORAGE, Alaska August 30, 2013 (AP)

By RACHEL D'ORO Associated Press

<http://abcnews.go.com/US/wireStory/70-quake-recorded-alaskas-aleutian-islands-20119910>

Several aftershocks rattled a remote Aleutian Island region off Alaska in the hours after a major 7.0 temblor struck with a jet-like rumble that shook homes and sent residents scrambling for cover.

At least three dozen aftershocks, including one reaching magnitude 6.1 in strength, struck after the major quake Friday, according to the U.S. Geological Survey.

"I heard it coming," said Kathleen Nevzoroff, who was sitting at her computer in the tiny Aleutians village of Adak when the 7.0 temblor struck at 8:25 a.m. local time, getting stronger and stronger. "I ran to my doors and opened them and my chimes were all ringing."

There were no reports of damage or injuries from the earthquake, which occurred in a seismically active region. It was strongly felt in Atka, an Aleut community of 64 people, and the larger Aleutian town of Adak, where 320 people live.

The earthquake and the aftershocks didn't trigger any tsunami warnings, but Michael Burgy with the West Coast and Alaska Tsunami Warning Center in Palmer, Alaska, said the center is monitoring for potential tsunamis caused by landslides, either on land or under water.

The Alaska Earthquake Information Center said the primary earthquake was centered 67 miles southwest of Adak, about 1,200 miles southwest of Anchorage. Shaking lasted up to one minute.

The 6.1 aftershock struck in the same general area at 10:39 p.m. Friday. Police and town officials in Adak didn't immediately answer telephone calls for comment Friday night.

"We do expect aftershocks to occur in the next few days," USGS geophysicist Jessica Turner said. She said there had been a least 30 so far measuring at least magnitude 2.5.

She said the USGS hasn't had any reports of damage from the quakes, but added that the major one and some larger aftershocks have been felt.

The 7.0 quake occurred offshore in the subduction zone where plates of the Earth's crust grind and dive. By contrast, California's most famous fault line, the San Andreas, is a strike-slip fault. Quakes along strike-slip faults tend to move horizontally.

In Adak, city clerk Debra Sharrah was upstairs in her two-story townhome getting ready for work when she heard a noise.

"I thought it was my dog running up the stairs," she said. "It kept making noise and then it got louder. So then all of a sudden the rumbling started."

The four-plex of townhomes was shaking and swaying as Sharrah and her dog, Pico, dashed out the door. It seemed like the building moved for a long time, but the only thing disturbed in her home was a stepstool that fell over.

"Nothing fell off my walls, and the wine glasses didn't go out of the hutch or anything," said Sharrah, who moved to the island community from Montana's Glacier National Park area almost two years ago.

In Atka, Nevzoroff manages the village store and expected to find goods had flown off the shelves. But nothing was amiss.

"Everything seems to be okay," she said.

The communities are located in a sparsely populated region and both played roles in World War II.

Atka residents were displaced during the war, relocating to Southeast Alaska so the U.S. government could demolish the village to prevent the Japanese from seizing it as they had other Aleutian communities. After the war, the U.S. Navy rebuilt the community and residents returned. Today, the community is a cluster of solidly built utilitarian buildings scattered over rolling hills that turned emerald green in warmer months.

Adak, 110 miles to the west, had been home to U.S. military installations that allowed forces to wage a successful offense against the Japanese after they seized the Aleutian Islands of Kiska and Attu. After the war, Adak was transformed into a Naval air station that served as a submarine surveillance center during the Cold War. Later, the facilities were acquired by

the Aleut Corp. — a regional native corporation — in a federal land-transfer agreement. It became a city in 2001 and today retains its military appearance.

# Large earthquake hits remote Alaska waters, no tsunami seen

By Yereth Rosen

ANCHORAGE | Fri Aug 30, 2013 5:58pm EDT

<http://www.reuters.com/article/2013/08/30/us-usa-quake-alaska-idUSBRE97T0QL20130830>

(Reuters) - A large 7.0 magnitude earthquake struck early on Friday in waters 57 miles off the remote Alaska island of Adak, a former U.S. Navy station that is now a commercial fishing and maritime-service center, according to the U.S. Geological Survey.

There were no initial reports of damage, and the West Coast and Alaska Tsunami Warning Center said there was no tsunami watch, warning or advisory in effect.

"At this point, we've seen no ocean-surface disturbance," said Bill Knight, a scientist at the tsunami warning center in Palmer, Alaska. While no tsunami was expected, he said scientists were still monitoring the area for any earthquake-induced waves.

The earthquake, which struck at 8:25 a.m. Alaska Daylight Time, was strongly felt in Adak, about 1,300 miles southwest of Anchorage, said City Manager Layton Lockett.

"It was kind of hard to miss," Lockett said. "The strangest thing about this one was its length in time. I think people actually had time to get out of bed to see what was going on."

A magnitude 7 earthquake is likely to produce shaking that lasts 20 to 30 seconds, although it could last longer depending on local tectonics, Knight said.

A public radio station in Unalaska/Dutch Harbor, KUCB, interviewed a woman in Adak who said she timed the temblor at 40 seconds. The earthquake was followed by about 10 aftershocks of magnitude 3.5 or higher, Knight said.

Most structures in Adak can withstand earthquakes and other forces of nature, and any damage would likely be limited to water pipes and similar facilities that have yet to be fully examined, Lockett said.

"Generally, the buildings are built really strong. We do live on a volcano," he said of the town, which state records indicate has 321 residents.

There are two volcanoes on Adak Island, along with remnants of a third volcano, according to the Alaska Volcano Observatory.

The quake was also felt in Atka, a tiny Aleutian Island Native Aleut village 65 miles northeast of the quake's center, where Knight said callers reported "strong shaking" but no damage.

(Additional reporting by Bill Rigby in Seattle; Editing by Cynthia Johnston, Bernadette Baum and Andrew Hay)

The Boston Globe

Nation

# Earthquake rocks tiny Alaska villages

By Rachel D'Oro | ASSOCIATED PRESS AUGUST 31, 2013

ANCHORAGE — A magnitude 7.0 earthquake rocked Alaska's Aleutian Islands with a jet-like rumble Friday that shook homes and sent residents scrambling for cover.

"I heard it coming," said Kathleen Nevzoroff, who was sitting at her computer in the tiny Aleutians village of Adak when the major temblor struck at 8:25 a.m., getting stronger and stronger. "I ran to my doors and opened them and my chimes were all ringing."

There were no immediate reports of damage or injuries from the earthquake, which occurred in a seismically active region. It was strongly felt in Atka, an Aleut community of 64 people, and the larger Aleutian town of Adak, where 320 people live. The quake was followed by multiple aftershocks, including one measuring 4.9.

The earthquake did not trigger a tsunami warning, but Michael Burgy of the West Coast and Alaska Tsunami Warning Center in Palmer, Alaska, said the center was monitoring for potential tsunamis caused by landslides, either on land or under water.

The Alaska Earthquake Information Center said the primary earthquake was centered 67 miles southwest of Adak, about 1,200 miles southwest of Anchorage. Shaking lasted up to one minute.

The quake occurred offshore in the subduction zone where plates of the earth's crust grind and dive. California's most famous fault line, the San Andreas, is a strike-slip fault. Quakes along strike-slip faults tend to move horizontally.

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## **EXHIBIT 2**

RUS Letter to FCC Regarding  
Denial of AEE Waiver Petition



AUG 14 2013

**United States Department of Agriculture  
Rural Development**

The Honorable Mignon Clyburn  
Acting Chairwoman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20544

***Re: In the Matter(s) of the Connect America Fund, WC Docket No. 10-90, National Broadband Plan for Our Future, GN Docket No. 09- 51, Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135, High-Cost Universal Service Support, WC Docket No. 05-337, Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, In the Matter of Universal Service Reform Mobility Fund, WT Docket No. 10-208.***

Dear Madam Chair:

Congratulations on your new role as Acting Chairwoman of the Federal Communications Commission (FCC). We look forward to working with you to fulfill our shared mission of increasing broadband deployment and adoption throughout rural underserved communities. It was a pleasure meeting you last month and discussing our common interest in advancing President Barack Obama's infrastructure investment goals to sustain economic growth and job creation in remote, low-density areas. We look forward to a continuing collaboration with you and the other Commissioners.

Under your leadership, the FCC has made substantial progress toward achieving this goal by making the second round of Connect America Funds (CAF) under Phase I, available for rural areas served by price cap carriers. We strongly applaud this decision which mirrors recommendations made in our February filing that urged the FCC to combine unused CAF funds under Round 1, Phase 1, with the second round of funds. This decision will put much needed capital into rural markets where economic sustainability increasingly depends on access to affordable, broadband-capable networks.

While we are encouraged by the significant progress that has been made recently to improve the effectiveness of the CAF mechanisms for some carriers, much work is still needed to stabilize the investment climate for all rural carriers going forward. The U.S. Department of Agriculture (USDA) remains concerned over network investment in rural communities upon the issuance of

1400 Independence Ave, S.W. · Washington DC 20250-0700  
Web: <http://www.rurdev.usda.gov>

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights,  
1400 Independence Avenue, S.W., Washington, DC 20250-9410 or call (800) 795-3272 (Voice) or (202) 720-6382 (TDD).

the USF Transformation Order published in November, 2011 (Transformation Order). There is little doubt that the changes to existing high-cost support rules as well as the pending cuts outlined in the Further Notice of Proposed Rulemaking have also impacted carrier investment decisions.

In the meeting with former Chairman Julius Genachowski on February 15, 2013, we discussed the critical importance of facilitating broadband investment in rural areas to support expanded economic, educational and healthcare opportunities. We appreciate the steps that the FCC took to correct concerns with the quantile regression analysis (QRA) model under the 6<sup>th</sup> Reconsideration Order published in February, 2013 (Reconsideration Order), and the Order published in July 26, 2013 (July 26<sup>th</sup> Order). We believe, however, additional actions could be taken to further improve the existing Transformation Order and help the FCC achieve the President Obama's goal of ubiquitous broadband access for America, in order to:

**I. Maintain a 15 percent maximum impact of HCLS reduction through 2018 (a total of 5 years at the 15 percent level).**

Under the Reconsideration Order, the FCC limited the impact of the QRA cuts to 15 percent for 2013, and more recently extended the limit through 2014 in the July 26<sup>th</sup> Order. This was an important step for impacted carriers. We believe that more can be done. Further extension of the limit through 2018 will provide these carriers (i) additional time to accordingly adjust their operations and cost structures, and (ii) predictable support levels. Creating an extended glide path would serve to fully uphold the FCC's stated objective of a phased-in approach to its USF reform efforts. Finally, the additional 4-year extended glide path would provide a compromise between the 3-year phase-in of the \$250/month support cap and the 9-year phase-in of ICC terminating access rates to bill and keep.

**II. Expand CAF for all carriers provide support for standalone broadband service.**

Allowing all carriers the same opportunities to deliver high quality broadband service to their customers will help achieve the FCC's goals outlined in the National Broadband Plan as well as the statutory provisions in Section 706 of the 1996 Telecom Act. Supported services (47 CFR 54.101) should not be limited to the "voice telephony service" definition, but rather expanded to encourage greater adoption of broadband service by rural consumers. We welcome your Public Notice issued on May 16, 2013 seeking comment on options to provide support for standalone broadband transmission service and encourage the adoption of rules to enable this mechanism. We also support the solicitation of input for the best method to enable rural rate of return carriers to participate in CAF Phase 2.



### **III. Modify the existing waiver process.**

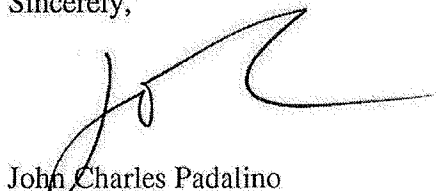
The FCC has employed a waiver process for giving impacted carriers an opportunity to obtain relief from the Transformation Order. It is unclear, however, how the FCC uses specific metrics and standards to determine the merit of each carrier's petition. We encourage the FCC to modify the existing waiver process in order to create a more transparent process for all carriers.

For example, FCC's denial of Adak Eagle Enterprises' waiver application puts this RUS loan at risk for potential default. FCC's reasoning, in part, sets bad precedence that all other outstanding RUS loans to rural providers may be treated in the same manner. We believe that in instances where Federal debt is at risk due to a denied waiver, RUS should be given deference during that decision-making process.

We appreciate the FCC's willingness to consider these important measures that will go far in increasing broadband deployment in rural areas. We are also heartened by the upcoming tutorial session later this month on the QRA model between our respective staffs where we can better partner to achieve our shared goal.

Thank you for your consideration of these recommendations. We look forward to working collaboratively with you to fulfill President Obama's mission for ubiquitous broadband access for rural communities.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Charles Padalino', with a stylized flourish extending to the right.

John Charles Padalino  
Administrator  
Rural Utilities Service

### **EXHIBIT 3**

Letter from Alaska Telephone Association, Attaching Letter  
from OTZ Telecommunications, LLC to RUS

## Alaska Telephone Association

**Michael Garrett**  
President

201 E. 56th, Suite 114  
Anchorage, AK 99518  
(907) 563-4000  
FAX (907) 562-3776  
[www.alaskatel.org](http://www.alaskatel.org)

**James Rowe**  
Executive Director  
[jrowe@alaskatel.org](mailto:jrowe@alaskatel.org)

September 3, 2013

Senator Lisa Murkowski  
709 Hart Building  
Washington, DC 20510

Senator Mark Begich  
111 Russell Senate Office Building  
Washington, DC 20510

Representative Don Young  
2314 Rayburn House Office Building  
Washington, DC 20515-0201

RE: Harmful FCC policies felt by Rural Alaskans

Dear Senators Begich and Murkowski and Congressman Young,

As you are well aware, the Alaska telecommunications industry has sustained crippling setbacks due to the FCC's universal service "reform." Support has been cut such that service is being degraded and much projected construction in the state put on hold. An example of communications services some Alaskans will NOT find available due to FCC "reform" is described in the attached letter from OTZ Telephone Cooperative which serves Kotzebue and the surrounding villages. The canceled project would have provided the infrastructure to deliver powerful 900 MHz band wireless service in the Northwest Arctic Borough, dramatically expanding an umbrella of safety over the population of the communities.

The FCC's recent decision to suspend implementation of "reform" in Alaska was welcome news and a direct result of our delegation standing up for rural Alaska. As you are aware, the suspension will finally force the FCC to reexamine how its new Universal Service Fund (USF) reforms will impact residents of the state.

Unfortunately, until such time as a permanent set of Alaska-specific "reforms" is established, the pre-suspension "reforms" continue to produce a chilling and immediate effect on investment in telecommunications infrastructure in Alaska.

It is troubling that the FCC's "reform", despite the two-year implementation delay in Alaska, continues to undermine the fundamental purpose of Universal Service -- affordable telecommunications *throughout* America. The OTZ situation, in what is surely one of the most rural

areas of the United States, offers a material example of the negative impact of the FCC's regulatory "reform."

Whether by design or by neglect, it is clear the net effect of FCC "reform" as it presently stands is a Universal Service future that does not include rural Alaska.

With Best Regards,

A handwritten signature in black ink, appearing to read "Jim Rowe". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Attachment: Letter from Doug Neal, OTZ to Peter Aimable, RUS dated August 21, 2013



August 21, 2013

**VIA EMAIL AND U.S. MAIL**

Peter Aimable, Director  
Northern Division  
Telecommunications Program  
Rural Utilities Services  
1400 Independence Avenue, S.W.  
Washington, DC 20250-0700

Re: Alaska 531-A42 – OTZT and Alaska 516 OTZ

Dear Peter:

As we discussed, OTZ Telecommunications, LLC f/k/a OTZ Telecommunications, Inc. ("OTZT") and its parent company, OTZ Telephone Cooperative, Inc. ("OTZ"), recently became aware of the July 15, 2013 decision of the Federal Communications Commission ("FCC") In the Matter of Adak Eagle Enterprises, LLC and Windy City Cellular, LLC Petitions for Waiver of Certain High-Cost Universal Service Rules, WC Docket No. 10-90, WT Docket No. 10-208 ("FCC Adak Decision"). OTZT and OTZ believe that the FCC Order signals the FCC's intent not to treat high-cost Universal Service support for rural Alaska telecommunications carriers in a manner that benefits them and raises concern about whether the direction the FCC is apparently now going will support the cash flow needed to service increased debt if OTZT and OTZ draw down funds now under the \$2,400,000 RUS loan, Project Alaska 531-A42 – OTZT (the "Loan").

While OTZT and OTZ, as co-borrowers on the Loan, feel comfortable at this time about OTZ's ability to service its other existing outstanding debt to RUS and the Rural Telephone Finance Cooperative, they believe it incumbent on them under the terms of the \$2,400,000 loan agreement ("Loan Agreement") to draw your attention to the *FCC Adak Decision*.

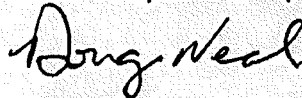
OTZT and OTZ expected that the uncertainty in the Universal Service support rules as applied to rural Alaska telecommunications companies would be favorably resolved by this time. The recent *FCC Adak Decision*, however, at least temporarily, points in a different direction. OTZT and OTZ wanted to draw this matter to RUS attention generally and before RUS took formal action on the proposal for a contract between Lemko Corporation and OTZT for \$1,110,926 previously submitted to RUS for formal approval from the Administrator at RUS. That submittal occurred before the recent *FCC Adak Decision*. OTZT and OTZ believe that a draw down on the Loan is not viable at this time and could undermine the ability to service RUS debt. OTZ asks that RUS consider the information in this letter before deciding whether the Administrator would formally approve the Lemko proposal for a contract. Please call me before reaching a final decision.

Peter Aimable  
August 21, 2013  
Page 2

OTZT remains hopeful that the FCC will reverse its current course and become more friendly to use of Universal Service funds to truly support rural Alaska telecommunications companies such as OTZT and OTZ before the time to borrow funds under the Loan Agreement expires. If the current outlook changes, OTZT and OTZ may approach RUS again. In the meantime, however, OTZT believes reasonable fiscal management makes it necessary to deal with the world as it stands today.

Very truly yours,

OTZ Telephone Cooperative, Inc. and  
OTZ Telecommunications, LLC by its Manager,  
OTZ Telephone Cooperative, Inc.

A handwritten signature in black ink, appearing to read "Doug Neal". The signature is fluid and cursive, with the first name "Doug" being more prominent than the last name "Neal".

Doug Neal,  
Chief Executive Officer

cc: Lamont Silas  
Richard M. Rosston

**EXHIBIT 4**

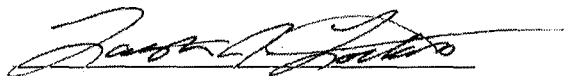
Second Declaration of Layton J. Lockett  
City Manager, City of Adak  
September 9, 2013

## **SECOND DECLARATION OF LAYTON J. LOCKETT**

I, Layton J. Lockett, declare that the following is true and correct to the best of my knowledge and belief:

1. I am the City Manager for the City of Adak in Alaska. In this capacity, I oversee the administrative and fiscal operations of the Department of Public Safety, including but not limited to Adak's 911 system.
2. The 911 service provided by General Communication, Inc. ("GCI") is inadequate and unreliable.
3. Unlike Adak Eagle Enterprises, LLC ("AEE"), GCI does not provide the City of Adak with regular customer information reports to proactively help emergency responders identify and find 911 callers.
4. GCI has a history of being unresponsive when asked by the City of Adak for assistance with its service and has no technicians on the Island to respond to service outages.
5. In contrast, AEE and Windy City Cellular, LLC ("WCC") work closely with the City of Adak and its Department of Public Safety to provide prompt, reliable assistance with its 911 service whenever requested. Furthermore, AEE and WCC have technicians on Adak Island to support their 911 service and respond to any service outages if necessary.
6. Unlike AEE and WCC, GCI does not pay any 911 fees to support Adak Island's basic 911 system.

Executed on this 9<sup>th</sup> day of September 2013.



Layton J. Lockett  
City Manager  
City of Adak, Alaska  
Phone: 907-592-4500 ext. 302



## CERTIFICATE OF SERVICE

I, Benjamin Bartlett, certify that on this 9<sup>th</sup> day of September 2013, a copy of the foregoing Reply to Opposition to Application for Review has been served via electronic mail or first class mail, postage pre-paid, to the following:

John T. Nakahata  
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heim.shannon@dorsey.com

/s/  
\_\_\_\_\_  
Benjamin Bartlett